

Air conditioners are a necessary modern convenience but are also major users of electricity. On hot days, cooling homes and businesses is the largest category of electricity demand. Requiring air conditioners to be as energy efficient as possible will begin to reduce the stress on the electricity generation and transmission network and decrease the likelihood of blackouts that many regions of the country experience during warm weather conditions.

Air conditioners that meet the Seasonal Energy Efficiency Rating 13 standard will provide benefits for consumers, the environment, and the nation. The SEER 13 standard will alleviate the need for additional electricity production and transmission resulting in as many as 48 fewer power plants required by 2020. This standard will also result in less harmful air pollution being emitted into the atmosphere. Moreover, by 2020 power plant emissions of carbon dioxide will be 2.5 million tons lower as a result, and emissions of mercury, sulfur dioxide, and nitrogen oxides will also be held down resulting in cleaner air and healthier citizens.

Finally, the higher standard can be expected to save businesses and residential consumers \$1 billion per year in lower electricity bills. Lower electricity bills will recover the slightly higher purchase cost for the more efficient air conditioners in less than 18 months.

As the Congress continues to debate the future of our nation's energy policy, this court decision is one that should be embraced and encouraged, not appealed.

Respectfully,

Tom Carper, Susan Collins, Byron L. Dorgan, Peter Fitzgerald, Jeff Bingaman, Dick Durbin, Jack Reed, Lincoln D. Chafee, Charles Schumer, Deborah Stabenow, Dianne Feinstein, Daniel K. Akaka, Elizabeth Dole, Ernest Hollings, Patty Murray, Lamar Alexander, Judd Gregg, Carl Levin, Olympia Snowe, Joseph Lieberman, Paul Sarbanes, Max Baucus, Maria Cantwell, Patrick Leahy, Joe Biden, Russell D. Feingold, Jim Jeffords, Jay Rockefeller, Frank Lautenberg, Ben Nelson, Hillary Rodham Clinton, Barbara Boxer, Barbara A. Mikulski, Christopher Dodd, Jon Corzine, John E. Sununu, Mark Dayton, Arlen Specter, Bill Nelson, Bob Graham, Ted Kennedy, Gordon Smith, Ron Wyden, Robert C. Byrd, Herb Kohl, Tim Johnson, John Edwards, John F. Kerry, Thomas Daschle, Daniel Inouye, Kent Conrad, Harry Reid, Richard Lugar.

The PRESIDING OFFICER. Who yields time? Is there further morning business?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous unanimous agreement, morning business is closed.

#### JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1637, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1637) to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

Pending:

Harkin amendment No. 2881, to amend the Fair Labor Standards Act of 1938 to clarify provisions relating to overtime pay.

McConnell motion to recommit the bill to the Committee on Finance, with instructions to report back forthwith the following amendment:

McConnell (for Frist) amendment No. 2886, in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 2898

Mr. GRASSLEY. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment No. 2898 to the instructions to the motion to recommit S. 1637.

The amendment follows:

At the end of the instructions (Amdt. No. 2886) insert the following:

SEC. . This act shall become effective one day following enactment of the legislation.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2899

Mr. GRASSLEY. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment No. 2899 to the amendment numbered 2898.

The amendment follows:

In the pending amendment strike "one" and insert "two".

Mr. GRASSLEY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, let me take a few moments to review where we are on this legislation.

First, I don't want to sound melodramatic but this is an important bill. This bill would help to create and keep good manufacturing jobs where they should be; that is, in America.

We need to move this bill. The Senate conducted 3 days of debate on the bill, one of them a Monday without rollcall votes, and this is our fourth day on the bill. In that time, we might say, the Senate has considered and

adopted a good number of amendments. Let me just list them.

We have adopted, first, the managers' amendment on leasing shelters; the managers' amendment making modifications to the revenue provisions; the committee substitute. We have also adopted the Bingaman amendment to expand the research credit; the Hatch-Murray amendment to extend the research and development credit. We have further adopted the McConnell amendment to protect American workers; the McCain amendment on defense; the Dodd amendment to protect American workers; the Bayh amendment to extend expiring provisions; the Bunning amendment to extend the net operating loss carryover provision; and the Bunning-Stabenow amendment to accelerate the phase-in of the manufacturing deduction.

That is quite a bit. A lot of legislation adopted, amendments passed already. Now, under the previous order, Senator HARKIN has offered his amendment on the Department of Labor's overtime regulations and that is the pending first-degree amendment.

Regrettably, in my view, the assistant majority leader offered a motion to recommit the bill and filed cloture on that motion to recommit. This morning the majority filled that amendment tree by offering a couple of secondary amendments.

There may come a time, after full and fair debate and amendment on the bill, when I would support a motion to cut off debate. But under the current circumstances, I will oppose that cloture motion. This is a bill about jobs, about quality jobs here in America. Senator HARKIN's amendment is also about the quality of jobs in America. This is not some amendment out of left field. The Senator from Iowa is not trying to change the subject, for example, to gun control or Medicare or reproductive choice, but rather he is staying on the subject. He is talking about jobs.

His amendment, although relevant, may not be strictly germane within the meaning of that term in Senate procedure. The effect of this cloture motion, if adopted, would be to block a vote on the Harkin amendment. I will not be a party to that effort. On a major bill such as this one, Senators deserve a full and fair opportunity to offer and get votes on amendments. We should allow that process to continue.

Even though this cloture motion has brought the Senate to something of an impasse, I remain hopeful. I am hopeful because I believe after the Senate recognizes that the votes are not there to block the Harkin amendment, the Senate can then reach an agreement limiting amendments to the bill to a reasonable number. I believe we can then work through this bill and bring it to completion by the end of the week. It is important that we do so. We need to respond to the European Union's sanctions, sanctions that impose a harmful tax on dozens of American products. Most importantly, we need to do what

we can to help to create and keep jobs in America.

I urge a prompt vote on the Harkin amendment, that we reach an agreement limiting amendments to a reasonable number, and then move on to complete this bill.

I yield the floor.

Mr. GRASSLEY. Mr. President, last night the majority leader set up a process for moving this bill to a cloture vote. This is not our preferred route for moving what is clearly a bipartisan bill voted out of committee 19 to 2. The two dissenting votes happened to be Republicans, not Democrats. This is clearly a bipartisan bill. A bipartisan bill should not require a cloture vote to get passed.

I remain hopeful we will be able to work out an agreement on moving the bill forward without the need for this extraordinary parliamentary process, but if cloture is the only way to move this bill, then I hope everybody will support cloture. We need to support cloture in the same bipartisan manner we used to build this bill. It is urgent that we move this bill immediately.

This bill reduces the income tax on goods manufactured in the United States and sold overseas so we can create jobs in America. We give a priority on taxation to goods made in America.

Everybody in this body is concerned about outsourcing. If we want to do something about keeping jobs in America and adding to the number of jobs in America, this bill will do it. It is going to make our costs of operation less and consequently competitive with world competition. That is why we call it the JOBS bill.

The reason we are in a bad position right now is because under the international agreements we have on trade, the World Trade Organization has ruled that our pretax policy is an illegal export subsidy, and consequently the World Trade Organization has authorized Europe to do up to \$4 billion a year in sanctions against U.S. exports.

It isn't just the case of our tax system causing us to not be competitive. On top of that, we now have \$4 billion of sanctions to further weigh down our ability to compete in the export market. These sanctions began on March 1. These sanctions started at 5 percent, which is just like a 5-percent sales tax on the stuff we are going to sell. The rule of Economics 101 is if you tax something at a higher rate, you get less of it. But not only is it 5 percent now, it is going to be 5 percent for each month we do not conform our tax laws to our trade agreements.

Remember, we have trade agreements because the U.S. Congress enacted those trade agreements. It has been done by a majority of the representatives of the American people. One percent a month can take us all the way up to a maximum of 17 percent over the course of a year. By November, we are going to have a 12-percent tax on our exports. This is a very serious threat for all States because the

sanctions hit a wide range of products—agricultural, timber, and manufacturing products that we sell overseas.

We need to get this issue behind us very soon or we will never get this bill passed and we will continue to have this mounting level of taxation on our products being exported to a point where we are even more uncompetitive, to a point where workers may be laid off; whereas just the opposite can happen if we pass this legislation. We are going to be able to make our manufacturing more competitive and across the board with a wider range—not just for big corporations in America but for individuals that export, for sole proprietorships that are in manufacturing; you name it. People are going to get the benefit of a lower rate of taxation if they manufacture in America—not if they have a company in America and they manufacture overseas but just American jobs, American products made in America, or if a company wants to come over here and invest in America and build a plant and hire American workers, they will get the benefit of it as well.

We had 3 or 4 days on this bill 2 weeks ago. We started on it again yesterday. I think it is very important that we move ahead on this legislation. But the opening debate and the procedural shenanigans confirm my worst fears because there are some on the other side who want to use this legislation to move things that are unrelated to making our industry competitive and unrelated to the motivations behind this bipartisan bill.

Senator BAUCUS and I agreed on an order of amendments that would improve the bill and broaden important relevant issues. That agreement was undermined by the process coming from the other side of the aisle.

It means Members there presumably do not know the importance of this legislation, do not want to debate the substance of the bill but debate everything else. In a sense, this bipartisan bill is being turned into a political football. That is inexcusable because we have worked hard throughout this process to make sure everyone's concerns, both Republican and Democrat, were incorporated into this bill. You do not play political games with a bipartisan bill that affects the jobs of manufacturing workers across this land.

I take a moment to talk about how bipartisan this bill is. It is bipartisan and was built that way from the ground up. It is the construction that began when my friend and colleague, Senator BAUCUS, was chairman of the Finance Committee. Senator BAUCUS held hearings on this issue in July 2002 to address the FSC/ETI controversy going on within the World Trade Organization. The title of the hearing was "The Role of the Extraterritorial Income Exclusion Act in the International Competitiveness of U.S. Commerce." Talk about a chairman taking his responsibilities seriously, Senator BAUCUS did.

Even then we were concerned about the outsourcing of jobs. We were concerned about American manufacturing being able to compete with the global environment we are in. We heard at that time vital testimony from a cross-section of industries that would be adversely affected by the repeal of this extraterritorial income act.

We also heard from U.S. companies that were clamoring for international tax reform more broadly than FSC/ETI because our tax rules were hurting their competitiveness in the foreign markets. If you want to create jobs in America, and we have a tax system that makes us uncompetitive, would you not expect the Congress of the United States to respond, and respond in a bipartisan way to that problem for our manufacturers? Or if you did not, why would you harangue about outsourcing? You need to do something about it.

These companies that testified in the summer of 2002 told us their foreign competitors were running circles around them because of our antiquated international taxing rules. During this hearing, we had our colleagues, Senator BOB GRAHAM of Florida and Senator HATCH of Utah, express concerns about how our international tax laws were impairing the competitiveness of U.S. companies. After some discussion on forming a blue-ribbon commission to study this problem, we all decided that decisive action was more important than the usual commission approach that usually ends up with a lot of public relations and high talk but no action.

During that hearing, then-Chairman Baucus formed an international tax working group that was joined by Senator GRAHAM, Senator HATCH, and this Senator, and was open to any other Finance Committee Senator interested in this issue. The bipartisan Finance Committee working group formed the basis for the bill we are debating this very minute. We directed our staff to engage in an exhaustive analysis of many international reform proposals that have been offered. Our efforts were intended to glean the very best ideas from as many sources as possible.

Senator BAUCUS and I also formed a bipartisan, bicameral working group with the chairman and ranking member of the Ways and Means Committee of the other body in an effort to find some common ground on dealing with this repeal of FSC/ETI. Obviously, that did not go so well because the other body has come out with legislation somewhat different than ours. Consequently, they are finding it very difficult to get the votes to pass it in the other body. That is another reason, if we move quickly, maybe we can impress upon the House of Representatives that this body can function, this body works; we have a good product and maybe that will encourage bipartisanship in the House of Representatives.

Through this working group we continued our efforts in cooperation with

Senator HATCH, Senator BOB GRAHAM, and other members of the Finance Committee who wanted to do what was fair and what was right in complying with this World Trade Organization ruling. We continued our bipartisan efforts when I became chairman in 2003. In July last year, we held two hearings on the FSC/ETI and international reform issues. One hearing focused on: "An Examination of the United States Tax Policy and Its Effect on Domestic and International Competitiveness of United States-Based Operations," building upon the very successful hearing that chairman BAUCUS had in 2002.

Our second hearing was entitled "United States Tax Policy and Its Effects on International Competitiveness of United States-Owned Foreign Operations," as opposed to United States-based operations in the first hearing. These two hearings concluded our final bipartisan effort in reviewing all of the policy options that led to the creation of the bill that is before the Senate right now.

Let me again emphasize there is not one provision in this JOBS bill that was not agreed to by both Republicans and Democrats. We have acted in good faith. We have acted in the best of faith to produce a bill that takes American manufacturing jobs and ensures that our companies remain the global competitors we want them to be. We did this in a fully bipartisan manner, which is what the American people expect on such an important issue as manufacturing jobs in our Nation's economic health.

These efforts that have been expended to bring this bill to this point are apparently not enough for some. They still view this whole process as political punt, pass, and kick competition. I now realize there are some who do not want this bill to pass, and maybe not having it passed will serve their political end. They want economic downturns that continued sanctions will produce to continue economic doldrum.

Several weeks ago, an article in the Washington Post quoted a Democratic tax aide as saying: "There is not a lot of incentive for us to figure out this problem." The Democratic aide went on to say that allowing the extraterritorial income controversy to fester would yield increased sanctions that somehow would benefit the Democrats in November. That is an appalling statement because we hear the concern that is legitimately expressed about outsourcing.

We have a bill before the Senate that can do something about outsourcing. We have a situation before the Senate that if we do not pass this bill, not only will we not have some tax advantage we thought we once had, but we will have the sanctions on top of that to weight down American industry so more people are laid off.

How can Members one day give a speech about outsourcing and the next day slow down a bill that does some-

thing about outsourcing? Outsourcing only comes as a matter of competition. There is not any American businessperson sitting around anyplace that decides, I want Mary's job to go to India. I want Pete's job to go to China. I want Ralph's job to go to Russia.

There is not any American businessman who speaks in terms of: I don't want this American to have a job, because they would not have hired them in the first place.

This outsourcing happens because they look at what their competition is paying to produce a product. In the economics of business, when you are a businessperson, wherever in the world, if you do not make a profit, you are not going to be in business. So a businessperson seeing that he is not competitive, that is where you lead to outsourcing.

Now these American manufacturers come and testify before our committee. They tell us what makes them non-competitive. One is the cost of capital in America being high. We have an opportunity to reduce the cost of capital and, at the same time, encourage manufacturing in America. That is what this bill does.

So everyone on both sides of the aisle who talks about outsourcing—I do myself—needs to band together if we are serious about doing something about outsourcing and get behind this effort to get the bill passed because manufacturers tell us this bill will help. And, for sure, they know these sanctions that are on American manufacturing now are an additional burden they cannot withstand.

America's farmers and manufacturing workers must not pay the price for the sort of stonewalling we are seeing. Efforts to delay this bipartisan bill with unrelated measures is a bad excuse. Why would they raise political issues that are unrelated to this bill in an attempt to undermine the JOBS Act?

Delay will allow sanctions to continue and drive down our economy. That will allow sanctions to increase to 12 percent by the November elections. Maybe that is too tempting for some people who are worried about the election instead of the next generation to pass up.

I am hopeful we will see the best politics ends up being good policy. That is what we have with this bill. We help domestic manufacturers. We help U.S. companies compete overseas. Putting politics ahead of good policy is exactly the wrong approach. In effect, this political game does not help those who face the sanctions. It does not help domestic manufacturers and workers in those industries.

A vote against this bill is a vote to continue European Union sanctions, already at 5 percent—6 percent in April, 7 percent in May, 8 percent in June, 9 percent in July, 10 percent in August, 11 percent in September, 12 percent in November.

We are here to represent the interests of the United States. On this bill,

we are here to represent the interests of jobs in America. We are here to represent the symbol "Made in America."

If we do not pass this bill, whether people realize it, they are representing the interests of the European Union, because it is the European Union which is going to benefit with European jobs.

We have 5.6 percent unemployment in America, which is probably less unemployment than most of my life in politics as an index of how the economy is going. But still, it is bad to have 5.6 percent unemployment. What is worse than the 5.6 percent unemployment is the people who are complaining about the 5.6 percent unemployment and not passing this bill that is going to make employment in America better.

Oh, maybe they are looking over to Germany. Their unemployment rate went up last month to 10.7 percent. By not passing this bill, we might help some German workers get a job, some of the German unemployed get a job. Well, I do not think we ought to put the interests of the European Union first.

The only way to honor our trade obligations and to make American business competitive and to create jobs in America is to pass this bill and repeal the extraterritorial income provisions of our law. It is very simple. It is so simple that is why this is a bipartisan bill. As I said before, I hope the leadership of this body can cooperate, both Republican and Democrat, to focus on this legislation, to focus on the task at hand, and particularly on the other side where all the amendments are coming from, to know the importance of passing this bill, not stalling this bill, and moving forward.

Repealing FSC/ETI raises about \$55 billion over 10 years, and 89 percent of that money comes from manufacturing. It gives us an opportunity to use that \$55 billion to emphasize American manufacturing, the creation of jobs in America, and to use that \$55 billion as an incentive to American manufacturers to manufacture here and not to manufacture overseas.

We need to send that money back to the manufacturing sector because if we do not, then besides these sanctions, we have a \$50 billion tax increase on American manufacturing.

The Congressional Budget Office says we have lost 3 million manufacturing jobs since July of 2000. Is this manufacturing decline something the Bush administration did? No. It started in July of 2000. A \$50 billion tax increase will not stimulate manufacturing jobs.

Again, simple principles of economics 101: If you tax something more, you get less of it.

The JOBS bill uses all of the money from the FSC/ETI repeal to give a 3 percentage point tax cut on all income derived from manufacturing in the United States. Let me emphasize: just in the United States. It is not for manufacturing by American companies overseas.

The relief applies not only to big manufacturers but sole proprietors,

partnerships, farmers, individuals, family businesses, multinational corporations if they are manufacturing in America, and also plain big or small foreign companies that set up manufacturing plants in the United States.

We also include international tax reforms, mostly in the foreign tax area, and most of which benefit manufacturing.

Our bill also includes the Homeland Reinvestment Act, which has broad support in both bodies of the Congress.

The Finance bill is revenue neutral. That is another thing we have to do: have it carefully crafted in order to get bipartisan support for this legislation and not add to the deficit; there are both Republicans and Democrats who do not want to pass a tax bill that loses revenue. So we have the ability, by extending Customs user fees—and, more importantly, by shutting down illicit tax shelters, corporate tax shelters, and closing abusive corporate tax loopholes—to raise money to do even more than we have described to be able to do some reform of the international taxing regime generally beyond just FSC/ETI.

As with all bills, there is never complete agreement on this approach. That is even considering the fact it was voted out of committee in a bipartisan way 19 to 2. Remember, all Democrats voted for this bill to come out of committee.

Our bill contains a haircut on the rate reduction some of us would like to remove and others would like to retain. Some Members prefer a reduction in the top corporate rate across the board in place of the international reforms and the manufacturer's rate cut in this bill. I understand the desire for this simpler approach cutting taxes, but a top level rate cut would only go to the biggest corporations of America. Local family-held S corporations and partnerships, which presently get some extraterritorial income benefits, get nothing from this. If we redirect FSC/ETI money to an across-the-board corporate cut, then the manufacturing sector will be the revenue offset. In other words, we are going to be shifting from tax advantages from manufacturing to services where we have some problem, but I think we generally agree not as much of a problem as we have in manufacturing.

The international tax reforms largely fix problems our domestic companies face with the complexities of the foreign tax credit. These reforms are necessary if we are to level the playing field for U.S. companies that compete with our trading partners. The Finance Committee bipartisan bill has been improved with an amendment to extend the research and development tax credit through the end of 2005. That is a domestic tax benefit that incentives research and development, makes our businesses competitive and prepared for the next generation of technology. This, however, translates also into good, high-paying jobs for workers in America and not overseas.

In addition to the previously agreed upon R&D amendment, there are several additional provisions to improve this bill. We have the amendment by Senators BUNNING and STABENOW, a bipartisan amendment to accelerate the manufacturing deduction. This amendment ensures the tax relief and related economic benefits of the bill are provided more quickly to those hurt by the repeal of FSC/ETI. This is now part of the bill.

Second, there is an amendment I offered with Senator BAUCUS to extend for 2 years tax provisions that have expired. Some expired in 2003, some this year. This includes items such as the work opportunity tax credit and the welfare-to-work tax credit which have been merged and simplified into a single credit as proposed by Senator SANTORUM and others in the bill S. 1180. This is now a part of the legislation.

A third provision on net operating losses is also included. This provision allows companies that operated at losses during the difficult economic conditions of last year to offset those losses against their income of the previous 5 years. So this provision is going to accelerate tax relief to companies that need it to continue operations and to continue their recovery from the recent economic difficulties. This provision is now in the bill.

The JOBS bill before us also contains many other items that are widely supported by the Members. We have enhanced the amount of transition relief for U.S. manufacturing companies that will be harmed by the FSC/ETI repeal. We have enhanced depreciation provisions, brownfield revitalization, mortgage revenue bonds. We allow deductions from private mortgage insurance for people struggling to afford a home.

The bill includes tax benefits for reservist employees that provides a tax credit to employers for wages paid to reservists who have been called up to active duty. We have extended and enhanced the Liberty Zone Bonds for the rebuilding of New York City, particularly requested by its two Senators. We have increased industrial development bond levels to spur economic development. We have included the Civil Rights Tax Fairness Act. We have provided for rail infrastructure and broadband.

All of these benefits are being held hostage because some Members are pushing politically motivated votes on an issue that is not even in this bill. Let's get on with the business at hand and finish it. Let's put good economic policy first in the Senate.

We do have the issue of cloture which comes up periodically when we have to get to the completion of legislation. I, for one, was hoping this cloture would not be filed. That is the way Senator BAUCUS and I hoped it would happen. I have to deal with the fact it is filed. My colleague Senator BAUCUS has to deal with that fact as well. This needs to be dealt with on a little higher plain than from bill to bill.

I propose to the leadership of the Republican and Democratic caucuses that somehow, if we are going to get between now and adjournment this fall, without a lot of waste of time on the part of the Senate and the 100 Members equally affected, that we get a list of the so-called amendments I referred to as politically motivated. I think the other side sees they have certain issues that ought to get before the American people, ought to be discussed. Republicans have some of those issues as well that Democrats would just as soon we not bring up. I don't know why there can't be some agreement unrelated to a specific bill before the Senate that certain of these issues are going to be brought up, and we will find someplace to handle one on this bill, one on another bill, a third one on another bill, so they don't get dumped at one time all on one piece of legislation. Then we know ahead of time what the situation is; there will be a plan for the functioning of the Senate.

I should not speak for Senator BAUCUS but I believe I can. He comes from a philosophy that this place ought to work, that it ought to make product. We ought to do our job. And I am sure that even though he might have a different view than I do on this issue of cloture, he wishes it were not that way. I wish it were not that way. He wishes there was a plan before us to move every important piece of legislation in an expeditious way because that is what we are sent here to do. We all ought to want to make this place work because when it does not work, it makes all of us look bad. It puts the good of the American people secondary to politics, whether it is Republican politics or Democratic.

I yield the floor.

Mr. HARKIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. The parliamentary inquiry I would like to make is where are we right now on the bill? Are we on the motion to recommit, at this point?

The PRESIDING OFFICER. The motion to recommit is pending.

Mr. HARKIN. I understand also that a cloture motion has been filed on the motion to recommit.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Since there is a motion to recommit that is pending, is it not in order for an amendment to be made to that motion?

The PRESIDING OFFICER. Amendments have already been made to the motion to recommit.

Mr. HARKIN. Do I understand that both a first-degree and second-degree amendment have been made already?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. So, therefore, no amendments, then, are allowed, under the rules of the Senate, to be made to the motion to recommit?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Further inquiry, Mr. President: Yesterday this Senator offered an amendment dealing with overtime. Is that amendment still pending?

The PRESIDING OFFICER. The amendment is still pending.

Mr. HARKIN. Is it further correct to say that if cloture is invoked, this amendment would fall, that it would not be allowed under the rules of the Senate?

The PRESIDING OFFICER. If the motion to recommit is adopted, the Harkin amendment would be vitiated.

Mr. HARKIN. I understand that. But then this Senator would be allowed to offer my overtime amendment on the new bill that will be before us at that point?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Further inquiry, Mr. President: If, however, cloture is invoked on the motion to recommit, is it not true that this Senator's amendment then would fall and not be allowed, under the rules of cloture, or am I wrong? Maybe my amendment would be allowed.

The PRESIDING OFFICER. The question is on whether, if cloture is invoked—

Mr. HARKIN. Yes.

The PRESIDING OFFICER. If cloture is invoked, then the amendment would be nongermane.

Mr. HARKIN. I understand that. I want to make it very clear for those who may be watching in their offices and not present on the floor. If cloture tomorrow, when it ripens, is invoked, we will not be allowed to vote on an overtime amendment; is that correct? Because it will be deemed to be nongermane under the rules of cloture, is that correct?

I repeat my question. I want to make it clear to those who are watching in their offices and may not be on the floor right now. Under the rules of germaneness, under the rules of the Senate, because of the parliamentary tactics just taken by the majority, having a motion to recommit and then sort of filling the tree, as we call it around here in parliamentary parlance, having the first-degree amendment and the second-degree amendment and then filing cloture—that was filed, I guess, yesterday—that through all of this parliamentary maneuvering, if in fact the Senate votes for cloture, on Wednesday, on tomorrow, then Senators will be denied a right to vote on my overtime amendment; is that not correct?

The PRESIDING OFFICER. The difficulty in answering the question is based on the motion that is pending, which is the motion to recommit as opposed to the cloture vote, and the cloture vote depends upon whether the motion to recommit passes or not.

Mr. HARKIN. I will ask one more time because I want to get this straight. There is pending a cloture motion. That cloture motion will be voted on tomorrow; is that not correct? It will ripen tomorrow.

The PRESIDING OFFICER. The Senator is correct. It will ripen.

Mr. HARKIN. If in fact there is a vote tomorrow on cloture and cloture is invoked—that is, a majority of the Senate votes yes on cloture—then this Senator's amendment on overtime will not be allowed under the rules of the Senate pertaining to germaneness; is that correct?

The PRESIDING OFFICER. It will not be allowed on the motion to recommit.

Mr. KENNEDY. Will my amendment be allowed on the bill that is then before the Senate?

The PRESIDING OFFICER. The bill will be pending before the Senate with a new substitute that is amendable.

Mr. HARKIN. Then under the rules of Senate, if cloture is invoked, this Senator's amendment would not be allowed, I understand, because it will be nongermane.

The PRESIDING OFFICER. The new substitute will be fully open to amendment. The Senator can then offer his amendment to the substitute.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my good friend, the chairman of the committee, for his remarks. I am quite hopeful, frankly, that we can reach an agreement fairly quickly so that we can move on this bill. At the present moment, we are at an impasse with the cloture motion filed, and the amendment tree is filled up.

I expect it is the wish of the majority to eventually avoid a vote on the amendment offered by Senator HARKIN. I believe Senator HARKIN deserves a vote. I believe the vast majority of Senators on both sides of the aisle would like to move quickly on this legislation—reach agreement on a number of amendments that would be in order so we can move quickly.

Based on my conversations with Senators and with the leadership, I have every expectation that we can reach that agreement quite soon—hopefully, this afternoon. This is the Senate. Every Senator deserves an opportunity to offer his or her amendments. We also have to reach agreements. We have to pass legislation. It requires compromise. I do believe we will reach that agreement which, necessarily, will be the result of compromise, fairly quickly.

I urge Senators to push their interests, as they should, but push them in a way where we can get an agreement to pass this legislation. I hope we will do that this afternoon.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I understand that under a previous order the Senate is going to recess at 12:30 p.m.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Mr. President, we are in a situation where it looks as though the majority on the other side simply does not want to vote on my overtime amendment. They are going to do everything they can to try to prevent it.

Again, there is talk about delay and who is delaying this bill. Look, I offered my amendment the other day and we could have had a vote by now. I was willing to enter into a time agreement. They would not do it. I offered the amendment under a unanimous consent agreement reached with the other side to bring it up. Now, the parliamentary games being played are not on this side; they are on the other side. One really has to ask, Does the other side really want to get this bill through?

Again, I have no doubt that the chairman, my friend and colleague from Iowa, wants to get it through. He is chairman. Having been in that position before on another committee, I know you want to get your bill through. I have no doubt that the Senator from Iowa would like to get the bill through. It looks as though the leadership on that side—either the leadership or the administration; I don't know who is calling the shots—is simply saying they don't want to have a vote on overtime.

It is really unfortunate that they have now filed cloture on this bill. My friend and colleague from Iowa, and others on the other side, have referred to this as a jobs bill. They keep talking about it is a jobs bill. Well, all I can say in response to that is I believe the ranking member of our committee, Senator BAUCUS from Montana, would like to get the bill through, we would like to get completion of this bill and get it through, but that does not mean we should not be allowed to offer some reasonable number of amendments to try to improve it as we see fit. They may win, they may lose, but at least we ought to be allowed the right to offer and debate some amendments within reasonable timeframes.

One of the most important job-related amendments is the amendment on overtime. How could we possibly tell the American people with a straight face that we are passing a "jobs bill" on the Senate floor but we are not addressing the issue of overtime pay and the administration's proposed regulations that would have the effect of taking overtime pay protection away from millions of American workers?

This is an issue that goes right to the heart, the gut, of our American workforce: The right to be paid time and a half when one works over 40 hours a week. It has been in the law since 1938. Yet, as I said yesterday and I will continue to point out, last year the administration came out with a proposed set

of regulations to change the underlying overtime law. They did it without having one public hearing. Imagine that, changing something so fundamental to the American work ethic as the right to overtime pay without having a public hearing.

They put out the proposed regulations and the American public responded with thousands—I have heard maybe 60,000 to 70,000 comments. Then last summer, after a number of us had gotten wind of what they were trying to do and we started reading the proposed regulations, we offered an amendment on the Senate floor that would have basically denied that part of the overtime regulation that would take away this overtime right.

That amendment I offered last summer passed the Senate. It was bipartisan. I have heard a lot of references to the fact that this bill is a bipartisan bill. Well, the amendment I am offering is a bipartisan amendment because it was voted on last summer by both Republicans and Democrats and passed in the Senate, 54 to 46. Around here, that is pretty bipartisan.

Basically, what that amendment said is, no, we are not going to agree with the administration's proposed changes on overtime rules. If the administration wants to make fundamental changes in overtime rules, they ought to do it in the time-honored manner: work with Congress, have public hearings around the country, and then let Congress and the administration get together to revise, if revision is needed, overtime laws. But that is not the way the administration did it.

Again, if I hear correctly people on the other side say we are slowing down or stopping this bill, I am sorry; it does not ring true. This bill could have been brought up last fall, and it was not. We just spent a whole week in the Senate debating a gun bill that failed with over 90 votes against it. What was that all about? Why did we spend over a week doing that when we could have been doing this bill, if this bill is so important?

One has to raise some questions about what is going on because when one reads some of the publications around here—this was in Congressional Quarterly Today about this bill. According to the Congressional Quarterly, the chairman of the House committee, Congressman THOMAS:

... told the Tax Executive Institute, a group of corporate tax officials, on Monday that lobbyists seeking specific changes in international tax rules had effectively stymied his bill, according to the Associated Press.

So it is not us who are stymying this bill. Again, there are some corporate lobbyists downtown who are. Again, from CQ Today:

Meanwhile, House Ways and Means Chairman Bill Thomas, R-California, told a group of business tax officials on Monday that the current House version of the bill (H.R. 2896) was probably doomed.

So it is not us who are slowing this bill down, not at all. This Senator

would like to see this bill get through. I think there are some good things in this bill. That does not mean we should not be allowed to offer our amendments and have an up-or-down vote on those amendments.

A jobs bill? Well, fine, call it a jobs bill, but do not tell me this is a jobs bill and then say we cannot have a vote on our overtime amendment. That is about jobs. We know it is about jobs because we know, common sense dictates, if an employer can work a person longer than 40 hours a week and not have to pay overtime, why, it would be much better to work the person longer, pay them less, and then not hire any new workers.

At a time when we have 9 million Americans out of work, we have a jobless recovery in this country, why would we now be wanting to give employers another incentive not to hire new workers?

We had an agreement to consider my amendment. It was the fourth amendment in the series we agreed to prior to last week's recess, but no sooner was I able to offer my amendment last evening than the majority leadership decided to move to recommit the whole bill and to file cloture on that motion.

I am not sure how that meets our previous agreement to take up my amendment, but that is where we are now. A motion to recommit the bill is pending. I would like to talk about overtime. I would like to have an amendment about overtime and have a vote on it. As my parliamentary inquiries earlier this morning showed, we can go through this whole charade, motion to recommit, file a cloture, we can vote on that, and we can still come back with this amendment.

I suppose then they will file cloture on the bill. That is why it was wrong on the majority side to file cloture on this motion to recommit and why I hope we will oppose that cloture motion and deny cloture until we can get a right to offer our amendments and have a vote on our amendments.

We are not asking for unlimited debate. I would agree with the manager of the bill right now to a time limit on my amendment with an up-or-down vote. So it is not about us stalling this bill. Forget about that. Get that out of your head. That is not what is happening. What is happening is the majority side simply does not want to vote on overtime. Why? Because I think they are afraid, and the vote will be even stronger this time than it was last summer because more and more American workers, more and more people have found out what this administration downtown is trying to do to their overtime pay.

I will be on the floor waiting for every opportunity to offer this amendment and to get a vote on it. If the other side believes that somehow by going through this charade and slowing this bill down and somehow blaming us for it when we are not doing this is somehow going to get rid of this over-

time amendment, well, I am sorry to disappoint them. We are going to continue to debate and have a vote on this overtime amendment. It is that crucial, that important, to the American worker that this Senate express itself once again and say no to the administration, that we are not going to let them trample on the rights of American workers and take away their right to overtime pay if they work over 40 hours a week.

I see my time has expired. I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. ALEXANDER).

## JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT—Continued

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, the matter before the Senate is what?

The PRESIDING OFFICER. The second-degree amendment by Senator GRASSLEY.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, the Senator from Connecticut, Mr. DODD, wishes to speak for 15 minutes. I ask following that, the Senator from Massachusetts, Mr. KENNEDY, be recognized.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank the Senator from Nevada for securing the time. I may not need all of that time. I want to take a few minutes to express my deep concerns about the pending amendment. I am in favor of the pending amendment. My concern is that an effort will be made to somehow avoid having to vote on this critical issue, the issue of overtime pay.

First, let me commend Senator HARKIN of Iowa for being so tenacious and patient about this amendment. He has offered this proposal in the past. We carried the amendment, as I recall, in the Chamber, only to watch the matter be dispensed with and dropped in conference.

He has tried to bring up this matter before. In fact, prior to the recess period, Senator HARKIN was on the floor of this Chamber for a number of hours, trying to get a vote. I think he agreed